

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HOUSE BILL 2868**

### **AN ACT**

AMENDING SECTIONS 12-1841 AND 41-191.09, ARIZONA REVISED STATUTES; MAKING A  
CONDITIONAL APPROPRIATION; RELATING TO CRIMINAL JUSTICE BUDGET  
RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 12-1841, Arizona Revised Statutes, is amended to  
3 read:

4           12-1841. Parties: notice of claim of unconstitutionality

5       A. When declaratory relief is sought, all persons shall be made  
6 parties who have or claim any interest which would be affected by the  
7 declaration, and no declaration shall prejudice the rights of persons not  
8 parties to the proceeding. In any proceeding which involves the validity of  
9 a municipal ordinance or franchise, such municipality shall be made a party  
10 and shall be entitled to be heard. In any proceeding in which a state  
11 statute, ordinance, franchise or rule is alleged to be unconstitutional, the  
12 attorney general **AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE**  
**PRESIDENT OF THE SENATE** shall be served with a copy of the pleading, motion  
13 or document containing the allegation at the same time the other parties in  
14 the action are served and shall be entitled to be heard.

15       B. If a pleading, motion or document containing the allegation is  
16 served on the attorney general **AND THE SPEAKER OF THE HOUSE OF**  
**REPRESENTATIVES AND THE PRESIDENT OF THE SENATE** pursuant to subsection A, a  
17 notice of claim of unconstitutionality shall be attached to the pleading,  
18 motion or document as the cover page and shall state the following  
19 information:

20           1. The name, address and telephone number of the attorney for the  
21 party alleging that a state law is unconstitutional or the name, address and  
22 telephone number of the party if the party is not represented by an attorney.

23           2. The case name, court name, caption and case number of the  
24 proceeding.

25           3. A brief statement of the basis for the claim of  
26 unconstitutionality.

27           4. A brief description of the proceeding, ~~and attaching~~ **WITH** copies of  
28 any court orders in the proceeding if the claim of unconstitutionality is  
29 asserted in a pleading, motion or document other than the pleading, motion or  
30 document that initiated the proceeding.

31           5. The date, time, location, judge and subject of the next hearing in  
32 the proceeding, if any.

33       C. If the attorney general ~~is~~ **OR THE SPEAKER OF THE HOUSE OF**  
34 **REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ARE** not served in a timely  
35 manner with notice pursuant to subsection A, on motion by the attorney  
36 general, **THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE PRESIDENT OF THE**  
**SENATE** the court shall vacate any finding of unconstitutionality and shall  
37 give the attorney general, **THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE**  
**PRESIDENT OF THE SENATE** a reasonable opportunity to prepare and be heard.

1 Sec. 2. Section 41-191.09, Arizona Revised Statutes, is amended to  
2 read:

3       41-191.09. Attorney general legal services cost allocation  
4                   fund; contributions; exemptions

5       A. The attorney general legal services cost allocation fund is  
6 established for the purpose of reimbursing the department of law for general  
7 agency counsel. Monies in the fund are subject to legislative appropriation.  
8 The attorney general shall administer the fund.

9       B. Beginning July 1, 2006, all state agency appropriated and  
10 nonappropriated funds shall contribute a pro rata share of general agency  
11 counsel services provided by the department of law. The pro rata share is  
12 payable by payroll fund source, and the resultant amount shall be deposited  
13 in the attorney general legal services cost allocation fund. Beginning  
14 July 1, 2006, the pro rata share for each fund shall be ~~0.33~~ 0.635 per cent  
15 of the total payroll. For the purposes of this subsection, "total payroll"  
16 includes federal monies, STATE GENERAL FUND MONIES, special revenue funds,  
17 intergovernmental revenue monies, trust funds and other payroll fund sources.  
18 ~~Total payroll does not include any state general fund monies.~~

19       C. A claim for the pro rata share percentage payment shall be  
20 submitted according to the fund source, with the accompanying payroll, to the  
21 department of administration for deposit in the attorney general legal  
22 services cost allocation fund.

23       D. The following agencies are exempt from this section:

- 24       1. The department of water resources.
- 25       2. The residential utility consumer office.
- 26       3. The industrial commission.
- 27       4. The universities.
- 28       5. The auditor general.
- 29       6. The corporation commission.
- 30       7. The office of the governor.
- 31       8. The department of law.
- 32       9. The house of representatives.
- 33       10. The senate.
- 34       11. The joint legislative budget committee.
- 35       12. The Arizona state library, archives and public records.
- 36       13. The legislative council.
- 37       14. The department of administration risk management fund.
- 38       15. The department of transportation.
- 39       16. The Arizona game and fish department.
- 40       17. THE DEPARTMENT OF ECONOMIC SECURITY.
- 41       18. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 42       19. THE SUPERIOR COURT.
- 43       20. THE COURT OF APPEALS.
- 44       21. THE SUPREME COURT.

1       22. THE ARIZONA DEPARTMENT OF AGRICULTURE AND COUNCILS THAT RECEIVE  
2 ADMINISTRATIVE AND BUDGETARY SERVICES FROM THE ARIZONA DEPARTMENT OF  
3 AGRICULTURE.

4       ~~17.~~ 23. All self-supporting regulatory agencies as determined pursuant  
5 to section 35-143.01.

6       E. Monies in the attorney general legal services cost allocation fund  
7 are exempt from lapsing to the state general fund at the end of each fiscal  
8 year.

9       Sec. 3. State department of corrections budget structure

10      Notwithstanding any other law, the state department of corrections  
11 shall report actual fiscal year 2005-2006, estimated fiscal year 2006-2007  
12 and requested fiscal year 2007-2008 expenditures for each line item  
13 delineated in the fiscal year 2006-2007 general appropriation act when the  
14 department submits the fiscal year 2007-2008 budget request pursuant to  
15 section 35-113, Arizona Revised Statutes. The information submitted for each  
16 line item shall contain as much detail as submitted in previous years for  
17 prior line items.

18      Sec. 4. State department of corrections; private beds  
19                   contracting; conditional appropriation; reversion

20      A. Notwithstanding any other law, the state department of corrections  
21 shall issue a request for proposals for three thousand privately operated  
22 prison beds to be opened beginning in April, 2008. A bidder may bid for all  
23 or a portion of the three thousand beds. The department may award contracts  
24 to one or more bidders. The department shall submit the request for  
25 proposals to the joint legislative budget committee for review on or before  
26 October 2, 2006 and shall post the request for proposals on or before  
27 December 22, 2006. The department shall award and give notice to proceed to  
28 a successful bidder or bidders by May 31, 2007 and shall execute the contract  
29 or contracts with a successful bidder or bidders on or before June 30, 2007.  
30 The department shall submit the contract or contracts to the joint  
31 legislative budget committee for review before execution of the contract.

32      B. If the department executes a contract pursuant to subsection A, the  
33 sum of \$11,193,000 is appropriated from the state general fund in fiscal year  
34 2007-2008 to the state department of corrections for bed per diem costs  
35 associated with the contract.

36      C. If the department fails to execute a contract pursuant to  
37 subsection A, the department shall revert \$7,980,000 from its fiscal year  
38 2006-2007 general fund operating budget related to population growth and  
39 administrative costs.

40      Sec. 5. Criminal justice enhancement fund; state general fund  
41                   deposit; crime laboratory assessment fund

42      Notwithstanding any other law, for fiscal year 2006-2007, any monies  
43 distributed from the criminal justice enhancement fund pursuant to section  
44 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, shall be

1 deposited in the crime laboratory assessment fund established by section  
2 41-2415, Arizona Revised Statutes. Notwithstanding section 41-2415,  
3 subsection C, Arizona Revised Statutes, monies distributed by this section  
4 pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised  
5 Statutes, are for use by the department of public safety and are exempt from  
6 distribution to political subdivisions.

7 Sec. 6. Justices of the peace; payment of compensation; fiscal  
8 year 2006-2007

9 Notwithstanding section 22-117, subsection B, Arizona Revised Statutes,  
10 for fiscal year 2006-2007, the state shall pay 38.5 per cent of the  
11 compensation and employee related expenditures of a justice of the peace and  
12 the county shall pay 61.5 per cent of the compensation and employee related  
13 expenditures of a justice of the peace, except that the county shall pay the  
14 full amount of the employer contribution to the Arizona state retirement  
15 system or any county health plan.

16 Sec. 7. Aircraft use; department of public safety

17 Notwithstanding any other law, all personnel other than department of  
18 public safety employees and federal and local law enforcement officers that  
19 use department of public safety fixed wing aircraft shall reimburse the  
20 department of public safety for the operating expenses resulting from the  
21 flight.

22 Sec. 8. Retroactivity

23 Section 41-191.09, Arizona Revised Statutes, as amended by this act,  
24 applies retroactively to from and after June 30, 2006.